

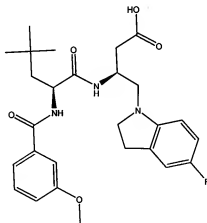
REMARKS/ARGUMENTS

Claims 1-37 are pending in this application and presented for examination. The Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-28, drawn to the products classified in various subclasses of class 549, 548, 544, 546 and 514;
- II. Claims 29-37, drawn to the methods of use for the products classified in various subclasses of class 514;

In response to the restriction requirement, Applicants elect Group I, drawn to the products, with traverse. Claims readable thereon include claims 1-28. In addition, an election of a single species is also required from the elected group.

With respect to a species election, Applicants elect with traverse compound 218, namely, (S,S)-4-(5-Fluoro-2,3-dihydro-indol-1-yl)-3-[2-(3-methoxy-benzoylamino)-4,4-dimethyl-pentanoylamino]-butyric acid. The species election is made for search purposes only. The elected compound has the following structure:



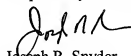
Compound 218

Applicants have made the election of the invention with traverse. According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct

inventions. See, the MPEP at 803.01. In establishing that an “undue burden” would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. However, the methods of the present invention have the patentable aspect of the elected compounds. Therefore, no undue burden exists to examine all the claims together. Further, once the product claims are found allowable, withdrawn method claims, which are commensurate in scope to the allowed product claims must be rejoined (M.P.E.P. § 821.04). As such, the Examiner should join all the claims now and examine them on the merits.

In view of the foregoing, Applicants believe that the restriction and species election is fully responsive. Early examination is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Joseph R. Snyder
Reg. No. 39,381

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 925-472-5000
Fax: 415-576-0300
JS:js
60879744 v1